

on the 9th of June of the same year. Its object was to bring before the Court, and in the presence of each other, the several creditors who claimed to be entitled to participate in the fund, to enable each to ascertain what objections would be made to his own claim, and how he should meet and resist, if he thought fit, the claims of his rivals; and not for the purpose of finally adjudicating upon and distributing the proceeds of the sale.

The Auditor, in this report, directs the attention of the Court to the probable existence of a claim for a sum of \$1,600, founded on a proceeding in Howard District Court to enforce the mechanics' lien, which had resulted in a judgment against the Company, from which the trustees had entered an appeal (see 3 *Md. Rep.*, 168), which was still pending, and submits the propriety of suspending the distribution of the funds until the objections should be removed. The claim itself was not filed, the only knowledge which the auditor had of its existence being derived from a petition filed on the 30th of May, 1851, by the counsel who conducted the cause on the part of the trustees.

The trustees filed exceptions to this first report of the Auditor on the 17th of June, 1851; and on the 10th of July following, an order was passed sending the case back for a new audit, with directions to allow the trustees a commission of 5 per cent. on the net proceeds of the sale, in addition to the commission allowed them in the first report, upon the ground that in making the second sale they were to be treated as attorneys recovering so much of the purchase-money by legal proceedings.

In obedience to this order, the Auditor made and filed a report on the 20th of October, 1851, accompanied with an account marked B, in which the net proceeds of the sale are distributed among the creditors, whose claims were filed and properly established; and this report having, according to the rule of the Court, been submitted during the sittings of the then ensuing December Term, on the part of certain of the creditors, and at the close of the sittings laid before the Court,